

*Not numbered
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GENERAL AND REVENUE SECRETARIAT.

1908
(Legislation)

File No. 27807

Serial Nos. 1 & 2

(70)

Papers Filed.

Month April 08

SUBJECT.

Status of volunteers in Native States

PREVIOUS REFERENCES.

LATER REFERENCES.

P.P. 111-21-145

P.P. 1057-30-145 (impl.)

1907-08

GENERAL AND REVENUE SECRETARIAT.

(Legislation)

NOTES.

File No. 27

FILE HEADING.

Status of Volunteer Forces in Native States

From

The: First Asst. Resident in Mysore

D.O. No. 883.

Dated 10/2/08

Received

12/2/08

Diary No. 215

Enclos.

Spare Copies.

Serial No. 1

BRIEF ABSTRACT OF LETTER.

States that the recent employment of the Volunteers at Kolar to help the Civil Authorities in checking a threatened breach of the peace has called the Residents' attention to the legal difficulties which beset the position of Volunteer forces in Native States to which Act No. 1869 has no territorial application. & that the provisions of the Mysore Revenue Act of 1869, which themselves were recently taken advantage of at Kolar, may be pointed out.

NOTES AND ORDERS.

But the provisions of Act No. 1869, which regulate the enlistment of Volunteer Forces do not seem to have been introduced into this State, and it seems that a Magistrate who finds the help of the Volunteer force necessary to prevent a threatened

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breach of peace can only ^{have} ~~be~~ recourse
to the help of His Highness the Alakha
Raja. Military force & none other
[vide Ch IX of the Civil Procedure] - Gov.
N. 265/D.O. of 18 April 1856, goes to
show that ~~it is illegal and~~ taking
recourse to the help of the Volunteer
force is illegal and unauthorised.
As regards the present case, it would
be well to have all the papers ~~come~~
on the subject, which it is understood,
to have been submitted to the Dewan
for approval of a draft order which
is intended to be forwarded to the
Residence, before the Resident can be
informed of the circumstances under
which the services of the Volunteers
at Kolar were taken advantage of
sub for orders

MS
18/2

By whom, on what
day of the disturbances,
and under what circumstances,
the aid of the Volunteers was ^{called for} ~~was~~
approved, do not appear from the
papers in this file. Those papers
are said to have been submitted
to the Dewan.

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No.

While according to Sec. 130 of the Cri. Pro. Code in force in British India, the aid of the Volunteers enrolled under the Indian Volunteers Act may be called for by a Magistrate, the portion relating to Volunteers is omitted in the corresponding section of the Mysore Criminal Procedure Code, evidently because they are under the control of the British Govt. The Govt. Order dated 18. April 1896 shows that a Magistrate acts in excess of his powers when he calls out the Volunteers.

Secy.

21.2.08

MW.

I am not sure if it is quite correct to say that the Indian Volunteers Act XX of 1869 has no territorial application at all in Mysore. Section 2 of the Act extends the act "to the whole of British India and (So far as regards British Subjects) to the dominions of Native Princes & States in alliance with Her Majesty". I believe Mysore comes under this class of Native States and it seems to me that it is in virtue of this limited territorial application that Volunteer corps have been formed and regulated in several parts of Mysore. The act applies to all British subjects who reside in Mysore.

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Section 24 of the Act empowers any member of a corps of Volunteers to prevent any disturbance of the public peace and disperse any unlawful assembly and apprehend suspected persons.

No doubt any British Indian Regulation is not binding on subjects of the Mysore State unless it has been introduced into Mysore by order of the Governor General prior to the Rendition or by a Regulation passed by the Durbar subsequently. The Indian Volunteers Act has not been so introduced in Mysore and is not binding on subjects of H.H. the Maharaja. But since it extends to all British subjects in Mysore, all such persons are bound by it. A volunteer would perhaps therefore be quite justified in exercising the powers given by Section 24 towards British subjects. The bulk of the coolies in the Kolar Gold Fields appear to be British subjects.

In British India the Civil authorities are empowered under section 130 of the Criminal Procedure Code to require any Volunteer officer to disperse an unlawful assembly. But in the corresponding section of the Mysore Code the Civil authorities can in that manner requisition the services of only the troops of the State. Thus if a Mysore magistrate requisitions Volunteers the latter are not bound to obey him.

Under section 128 of the Mysore Code of Criminal Procedure a magistrate may require the assistance of any male person - not being an officer or soldier of the military forces of H.H. the Maharaja and acting as such - to disperse an

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an unlawful assembly. The use of Volunteers by a Mysore magistrate may perhaps be covered by this section, though in such circumstances they should be regarded as a body of private persons and not as an organised Military force.

Ilwan

2222
4/3

8240 4/3/08

CB
4/3/08

A copy of the D.O reply sent to the Residency is placed in the file & the papers resubmitted.

for
1.4.08 Br III

2222
13.4

CB
13/4

2 D.O no 1106 & 11.4.08 to the J.A. Resident in Mysore -

opines that the recent employment of the Volunteers at Kolar must be regarded as unauthorised.

In the Secy. Encl
Yegre Mr. Encl 16/2
No 883. For Mr. Please put in a note
From No: 726
16.2.08
Pol: 1115
17-2-08 BANGALORE.
14th February 1908
17/2
4/11/2008

Dear Mr. Madhava Rao,

The recent employment of the Volunteers at Kolar to help the Civil authorities in checking a threatened breach of the peace has called the Resident's attention to the legal difficulties which beset the position of Volunteer forces in Native Territory to which Act. XX of 1869 has no territorial applications. Mr. Fraser would be much obliged therefore, if you will favour him with your views as to the provision of the Mysore Law, if any, under which the services of the Volunteers were recently taken advantage of at Kolar.

Yours sincerely

J. P. Rennie

V.P. Madhava Rao Esqr., C.I.E.,
 Dewan of Mysore.

E.P.

Replied 11-4-08



BANGALORE.

11th April 1908.

No. 2116.

Dear Mr. Madhava Rao,

Please refer to my D.O. letter No. 883 dated 14th February 1908, regarding the employment of the Volunteers at Kolar to help the Civil authorities in checking a threatened breach of the peace.

Mr. Fraser will be glad to be favoured with an early reply.

Yours sincerely

J. Rennie

V.P. Madhava Rao Esq., C.I.E.,

Dewan of Mysore.

NNM

Routine Notes.

CB-2955

[To be used only for notes, requisitions, etc., not intended for permanent record.]

COMM. OFFICE
21.1.29
No. 3853

R. C. F. Battalion of Mr
A. F. 9

These papers have to be
sent to Mr Dewan on his
return from Delhi.

mu
7/2

To be Replied
on 25-2-29.
8/2/29

MSR
7/2/29

Resulted.

7/2/29

A brief note on the
question is placed below

Dewan) mu
27/2

This may be discussed
again in Council,

N.B.—Should routine notes be written on small slips,
the notes must be copied, or slips pasted on
this form.

Im
30/4/29

No. 1106/1

3

Legis: H. no: 27-07
S. no: 2

Bangalore,

11th April 1908.

Dear Mr. Rennie,

I have to acknowledge the receipt of your letter No. 883 of the 14th February regarding the position of British Volunteer forces in the Mysore State.

In British India the Civil authorities are empowered under section 130 of the Criminal Procedure Code to require any Volunteer officer to disperse an unlawful assembly by Military force. But in the corresponding section of the Mysore Code all reference to Volunteer Corps is omitted and there is no law empowering a Magistrate in Mysore to make such a requisition to a Volunteer officer. This view has been accepted by the Mysore Government in their Proceedings No. 269/D.C. dated 1st April 1896 (copy enclosed), in which the action of the District Magistrate of Mysore in calling out the local Volunteer Corps was condemned.

The recent employment of the Volunteers at Kolar in checking a threatened breach of the peace, must, I think, be regarded as unauthorised.

Yours sincerely,

Sd/- V.P. Madhava Rao.

92

Revised

Dear Mr. Rennie,

I have to acknowledge the receipt of your letter No.883 of the 14th February regarding the position of British Volunteer forces in the Mysore State.

Sections 23 and 24 of the Indian Volunteer's Act, 1869, confers on members of a Volunteer Corps the power to disarm persons, to prevent disturbances of the public peace and to disperse unlawful assemblies. The Act extends to Native States also so far as regards British subjects, but as it has not been introduced into Mysore, it is not binding on Mysore subjects and it cannot, I believe, be held to confer any powers on the members of a Volunteer Corps in regard to Mysore subjects.

In British India the Civil authorities are empowered under section 130 of the Criminal Procedure Code to require any Volunteer officer to disperse an unlawful assembly by Military force. But in the corresponding section of the Mysore Code all reference to Volunteer Corps is omitted and

there is no law empowering
a Magistrate in Mysore is not empowered to make such a requisition to a Volunteer officer. *This has been accepted by the Mysore Govt*

in their Corp no. 264/B.C. of 1-4-98 (copy enclosed), in which the action of the District Magistrate in calling out the local Volunteer Corps was condemned.

The receipt of the employment of the Volunteers at Kodak in checking a threatened breach of the peace, I think, be regarded as an abuse.

Part Section 128 of the Code of Criminal Procedure as in force in Mysore empowers a Magistrate to require the assistance of any male person not being an officer or soldier in the Military forces of the Maharaja and acting as such for the purpose of

dispersing unlawful assemblies. It may be noted that in the corresponding section of the British Code, officers and soldiers of a Volunteer Corps acting as such are also excluded. There is thus no provision in the Mysore law which would prevent the services of the Volunteers being taken advantage of, as was done recently at Kolar. In fact, section 128 of the Mysore Code would seem to cover cases of the kind, although in such circumstances the Volunteers should be regarded as a body of private persons and not as an organised Military force.

Yours sincerely,